

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 8th day of November, 2007 at 8:00 P.M., and there were

PRESENT:           JOHN ABRAHAM, JR., MEMBER  
  
                          RICHARD QUINN, MEMBER  
  
                          JAMES PERRY, MEMBER  
  
                          ARLIE SCHWAN, MEMBER  
  
                          ROBERT THILL, MEMBER  
  
                          JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            NONE

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
  
                          JOHN DUDZIAK, DEPUTY TOWN ATTORNEY  
  
                          GEORGE PEASE, ASSISTANT BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF JOANNE M. ROCCO:**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Joanne M. Rocco, 5300 William Street, Lancaster, New York for a Temporary and Revocable Permit for the purpose of allowing the petitioner to conduct sales of antiques and handcrafted items from the petitioner's premises located at 5300 William Street, Lancaster, New York, to wit:

**WHEREAS**, Chapter 50, Zoning, Section 45D.(1)(a) of the Code of the Town of Lancaster authorizes the Zoning Board of Appeals to issue a Temporary and Revocable Permit for not more than two [2] years for uses and structures that do not conform with the regulations of this ordinance for the district in which it is located, provided that the use is of a temporary nature and does not involve the erection or enlargement of any permanent structure, and

**WHEREAS**, the petitioner desires to engage in retail sales of antiques and handcrafted items from her home which is located in an Agricultural Residential District, (A-R), and

**WHEREAS**, such retail sales are not a permitted use in an Agricultural Residential District, (A-R) and

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Joanne Rocco, petitioner  
5300 William Street  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF JOANNE ROCCO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Joanne Rocco and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of October 2007 and the 8th day of November 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the use requested is that of a Neighborhood Business (NB) District.

That the Ordinance of the Town of Lancaster already provides for a Home Occupation and Office of a Residential Professional in an R-1 District.

That William Street is a two lane County Highway heavily traveled.

That a business at this location would prove to be a safety hazard for those entering and exiting the business.

That there are no adequate off-site parking spaces available to the petitioner.

That the petitioner's hardship as set forth in the petition, namely unemployment and the need for a home occupation in an incubator setting is not unique to this applicant but is shared by many other residents of this municipality.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the Special Temporary Revocable Permit be denied.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. PERRY	VOTED NO
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution denying the variance was thereupon **ADOPTED**  
November 8, 2007

**PETITION OF GLENN MATECZUN:**

THE 2ND CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Glenn Mateczun, 602 Pavement Road, Lancaster, New York [P.O. Alden NY 14004] for one [1] variance for the purpose of constructing a detached garage on premises owned by the petitioner at 602 Pavement Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the garage would result in a five [5] foot south side yard lot line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot south side yard lot line set back. The petitioner, therefore, requests a ten foot [10'] south lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Mary Mateczun  
602 Pavement Road  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF GLENN MATECZUN**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Glenn Mateczun and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of November 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought not consistent with the side yard set backs in the Town.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the alleged difficulty is self created.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to construct the garage in accordance with the Code of the Town of Lancaster.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **CONSIDERED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **NOT ADOPTED**.

November 8, 2007

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:00 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: November 8, 2007

